

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL LEAGUE  
PLAYERS' CONCUSSION INJURY  
LITIGATION

No. 12-md-2323 (AB)

MDL No. 2323

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**THIS DOCUMENT RELATES TO:**

**Plaintiffs' Master Administrative Long-Form  
Complaint and (if applicable)**

**Carol Livingston, individually and as  
Attorney in Fact on behalf of Warren  
Livingston**

**v.**

**National Football League [et al.],**

**No. 12:2-cv-06081**

**SHORT FORM COMPLAINT**

**IN RE: NATIONAL FOOTBALL  
LEAGUE PLAYERS' CONCUSSION  
INJURY LITIGATION**

**JURY TRIAL DEMANDED**

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**SHORT FORM COMPLAINT**

1. Plaintiff, Carol Livingston, individually and as Attorney in Fact on behalf of her husband, Warren Livingston, bring(s) this civil action as a related action in the matter entitled IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION, MDL No. 2323.

2. Plaintiff (and, if applicable, Plaintiff's Spouse) is/are filing this short form complaint as required by this Court's Case Management Order No. 2, filed April 26, 2012.

3. Plaintiff (and, if applicable Plaintiff's Spouse), incorporate(s) by reference the allegations (as designated below) of the Master Administrative Long-Form Complaint, as may be amended, as if fully set forth at length in this Short Form Complaint.

4. Plaintiff is filing this case in a representative capacity as the Attorney in Fact of her husband Warren Livingston, pursuant to a valid Power of Attorney under Arizona State Law duly executed by Warren Livingston. A copy of the Power of Attorney is annexed hereto.

5. Plaintiff, Carol Livingston, is a resident and citizen of Arizona and claims damages as set forth below, individually as a result of loss of consortium proximately caused by the harm suffered by her husband Warren Livingston, as well as on behalf of Warren Livingston, as set forth below.

6. Plaintiff's spouse, Warren Livingston, is also a resident and citizen of Arizona.

7. On information and belief, the Plaintiff's husband sustained repetitive, traumatic sub-concussive and/or concussive head impacts during NFL games and/or practices. On information and belief, Plaintiff's husband suffers from symptoms of brain injury caused by the repetitive, traumatic sub-concussive and/or concussive head impacts the Plaintiff's husband sustained during NFL games and/or practices. On information and belief, the Plaintiff's husband's symptoms arise from injuries that are latent and have developed and continue to develop over time.

8. ~~[Fill in if applicable] The original complaint by Plaintiff(s) in this matter was filed in \_\_\_\_\_.~~ ~~If the case is remanded, it should be remanded to \_\_\_\_\_.~~

9. Plaintiff claims damages as a result of [check all that apply]:

☐ Injury to Herself/Himself

☒ Injury to the Person Represented

☐ Wrongful Death

☐ Survivorship Action

☒ Economic Loss

☒ Loss of Services

☒ Loss of Consortium

10. [Fill in if applicable] As a result of the injuries to her husband, Warren Livingston, Plaintiff, Carol Livingston, suffers from a loss of consortium, including the following injuries:

☒ loss of marital services;

☒ loss of companionship, affection or society;

☒ loss of support; and

☐ monetary losses in the form of unreimbursed costs she has had to expend for the health care and personal care of her husband.

11. ~~[Check if applicable] \_\_\_\_\_ Plaintiff (and Plaintiff's Spouse, if applicable) reserve(s) the right to object to federal jurisdiction.~~

### **DEFENDANTS**

12. Plaintiff (and Plaintiff's Spouse, if applicable) bring(s) this case against the following Defendants in this action [check all that apply]:

☒ National Football League

☒ NFL Properties, LLC

☐ Riddell, Inc.

☐ All American Sports, Inc. (d/b/a Riddell Sports Group, Inc.)

☐ Riddell Sports Group, Inc.

☐ Easton-Bell Sports, Inc.

☐ Easton-Bell Sports, LLC

☐ EB Sports Corporation

☐ RBG Holdings Corporation

13. ~~{Check where applicable} As to each of the Riddell Defendants referenced above, the claims asserted are: ☐ design defect; ☐ informational defect; ☐ manufacturing defect.~~

14. ~~{Check if applicable} ☐ The Plaintiff (or decedent) wore one or more helmets designed and/or manufactured by the Riddell Defendants during one or more years Plaintiff (or decedent) played in the NFL and/or AFL.~~

15. Plaintiff played in [check if applicable] X the National Football League (“NFL”) and/or in [check if applicable] ☐ the American Football League (“AFL”) during 1961 through 1966 for the following teams: the Dallas Cowboys

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

### **CAUSES OF ACTION**

16. Plaintiff herein adopts by reference the following Counts of the Master Administrative Long-Form Complaint, along with the factual allegations incorporated by reference in those Counts [check all that apply]:

X Count I (Action for Declaratory Relief – Liability (Against the NFL))

X Count II (Medical Monitoring (Against the NFL))

☐ Count III (Wrongful Death and Survival Actions (Against the NFL))

X Count IV (Fraudulent Concealment (Against the NFL))

X Count V (Fraud (Against the NFL))

X Count VI (Negligent Misrepresentation (Against the NFL))

X Count VII (Negligence Pre-1968 (Against the NFL))

   Count VIII (Negligence Post-1968 (Against the NFL))

   Count IX (Negligence 1987-1993 (Against the NFL))

X Count X (Negligence Post-1994 (Against the NFL))

X Count XI (Loss of Consortium (Against the NFL and Riddell Defendants))

X Count XII (Negligent Hiring (Against the NFL))

X Count XIII (Negligent Retention (Against the NFL))

   Count XIV (Strict Liability for Design Defect (Against the Riddell Defendants))

   Count XV (Strict Liability for Manufacturing Defect (Against the Riddell Defendants))

   Count XVI (Failure to Warn (Against the Riddell Defendants))

   Count XVII (Negligence (Against the Riddell Defendants))

X Count XVIII (Civil Conspiracy/Fraudulent Concealment (Against All Defendants))

17. ~~Plaintiff asserts the following additional causes of action [write in or attach]:~~

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**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff (and Plaintiff's Spouse, if applicable) pray(s) for judgment as follows:

- A. An award of compensatory damages, the amount of which will be determined at trial;
- B. For punitive and exemplary damages as applicable;
- C. For all applicable statutory damages of the state whose laws will govern this action;
- D. For medical monitoring, whether denominated as damages or in the form of equitable relief;
- E. For an award of attorneys' fees and costs;
- F. An award of prejudgment interest and costs of suit; and
- G. An award of such other and further relief as the Court deems just and proper.

**JURY DEMANDED**

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff(s) hereby demand(s) a trial by jury.

Dated: December 6, 2012

RESPECTFULLY SUBMITTED:

/s/ Anthony Tarricone  
Anthony Tarricone  
KREINDLER & KREINDLER, LLP  
277 Dartmouth Street  
Boston, MA 02116  
Telephone: (212) 687-8181  
Email: [atarricone@kreindler.com](mailto:atarricone@kreindler.com)

*Attorneys for Plaintiff(s)*

## Uniform Statutory Form Financial Power of Attorney

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I, **Warren Livingston, 308 E. Malibu Dr, Tempe, AZ, 85282** appoint **Carol Jean Livingston, 308 E. Malibu Dr, Tempe, AZ, 85282** as my agent (attorney-in-fact) for me in any lawful way with respect to the following initialed subjects.

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS. TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING. TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

### INITIAL

- \_\_\_\_ (A) REAL PROPERTY TRANSACTIONS
  - \_\_\_\_ (B) TANGIBLE PERSONAL PROPERTY TRANSACTIONS
  - \_\_\_\_ (C) STOCK AND BOND TRANSACTIONS
  - \_\_\_\_ (D) COMMODITY AND OPTION TRANSACTIONS
  - \_\_\_\_ (E) BANKING AND FINANCIAL INSTITUTION TRANSACTIONS
  - \_\_\_\_ (F) BUSINESS OPERATING TRANSACTIONS
  - \_\_\_\_ (G) INSURANCE AND ANNUITY TRANSACTIONS
  - \_\_\_\_ (H) ESTATE, TRUST, AND OTHER BENEFICIARY TRANSACTIONS
  - \_\_\_\_ (I) CLAIMS AND LITIGATION
  - \_\_\_\_ (J) PERSONAL AND FAMILY MAINTENANCE.
  - \_\_\_\_ (K) BENEFITS FROM SOCIAL SECURITY, MEDICARE, MEDICAID, GOVERNMENTAL PROGRAMS, CIVIL SERVICE, OR MILITARY SERVICE.
  - \_\_\_\_ (L) RETIREMENT PLAN TRANSACTIONS
  - \_\_\_\_ (M) TAX MATTERS
  - WZ (N) ALL OF THE POWERS LISTED ABOVE
- YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

**SPECIAL INSTRUCTIONS:**

ON THE FOLLOWING LINES, YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

My agent shall have the power to direct distributions of principal and interest from my IRA accounts.

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

*STRIKE THE PRECEEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.*

I agree that any third party who receives a copy of this document may act under it. A third party may require identification. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 4<sup>th</sup> day of may, 2012

Warren Livingston  
(Your signature)

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

I declare under penalty of perjury (1) that the person who signed this power of attorney is personally known to me, or that the Principal's identity was proven to me by convincing evidence, (2) that the Principal acknowledged this power of attorney in my presence, (3) that the individual appears to be of sound mind and under no duress, fraud or undue influence, and (4) that I am not a person appointed as the Attorney in Fact. I further declare that I am not related to the Principal by blood, marriage, domestic partnership or adoption.



05/04/2012  
(Date)

308 E. Malibu Dr.  
(Address)

Tempe  
(City)

5/4/12  
(Date)

1524 S. Price Rd.  
(Address)

Tempe  
(City)

Karen Y. Livingston  
(Witness Signature)

Karen Y. Livingston  
(Printed Name of Witness)

AZ  
(State)

Amber Y. Price  
(Witness Signature)

Amber Y. Price  
(Printed Name of Witness)

AZ  
(State)

State of Arizona

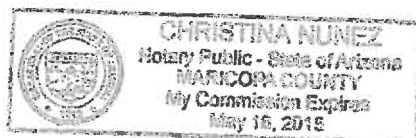
County of Maricopa } ss.

On May 4th, 2012 before me, Christina Nunez, Notary Public, personally appeared Warren Livingston,

Karen Y. Livingston, Amber Y. Price who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Signature



**AFFIDAVIT POWER OF ATTORNEY IS IN FULL FORCE**

State of Arizona

County of Maricopa } ss.

On this 4th day of May, 2012, before me personally appeared **Warren Livingston** whose identity was proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he/she executed the same.

(SEAL)

NOTARY PUBLIC

